

DETAILED ACTION

Response to Arguments

1. The rejection under 35 U.S.C. 112 1st and 2nd paragraph have been overcome by the amendment filed 9/17/08.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Benjamin Borson on 9/29/2008.

The application has been amended as follows:

Claim 51 is removed.

Claim 52 is amended from —The method of Claim 51, wherein the hypoxic or ischemic injury or disease is a result of one or more conditions selected from the group consisting of head injury, traumatic brain injury, stroke, ischemic injury, hypoxic injury, reperfusion injury, cardiac artery bypass graft surgery, toxin damage, radiation damage and asphyxia. — to "A method of treating a disease selected from the group consisting of ischemic injury, hypoxic injury, reperfusion injury, and asphyxia, comprising administering to a patient an effective amount of a compound of claim 47."

In claims 53 and 58-64, the phrase —claim 51— is changed to "claim 52".

Allowable Subject Matter

3. Claims 46-50, 52-53, and 57-64 are allowed.
4. The following is an examiner's statement of reasons for allowance: Harris et al. (*Organic Letters*, **2003**, 5(11), 1847-50, cited in IDS) teach compound 21 (page 1847). This compound fails to anticipate or render obvious because variable X of the instant claims in structure 21 is

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CH=CH-CH₂. Variable X in the instant set of claims can only be (CH₂)₃. In addition, the ring system of structure 21 reported by Harris et al. (decahydropyrrolo[1,2-d][1,4]diazocine) is not the same as the ring system of claims 46-50 (decahydropyrrolo[1,2-a]azocine). Another difference between the two structures is the group attached to the pyrrolo rings. In the instant application, a C(O)NH-CH(CO₂H)((CH₂)₂CO₂H) is attached to the pyrrolo ring. In structure 21 of Harris et al., a CO₂t-Bu group is attached to the pyrrolo ring. Hence, compounds of claims 46-50 appear free of the closest prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NOBLE JARRELL whose telephone number is (571)272-9077. The examiner can normally be reached on M-F 7:30 A.M - 6:00 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached on (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Noble Jarrell/
Examiner, Art Unit 1624

**/James O. Wilson/
Supervisory Patent Examiner, Art Unit 1624**